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4 JACOBI GAINES,

5 Plaintiff,

6 v.

7 K. DE LA FUENTE,

8 Defendant.

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10 Case No. [23-cv-05386-RMI](#)

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12 **ORDER**

13 Re: Dkt. No. 22

14 Plaintiff, a detainee proceeding *pro se*, filed a civil rights complaint under 42 U.S.C. §
15 1983. The Court ordered service and is waiting for a dispositive motion from Defendant. Presently
16 pending is Plaintiff's motion to appoint advisory counsel to help prepare for trial.

17 There is no constitutional right to counsel in a civil case, *Lassiter v. Dep't of Social*
18 *Services*, 452 U.S. 18, 25 (1981), and although district courts may "request" that counsel represent
19 a litigant who is proceeding *in forma pauperis*, as plaintiff is here, *see 28 U.S.C. § 1915(e)(1)*, that
20 does not give the courts the power to make "coercive appointments of counsel." *Mallard v. United*
States Dist. Court, 490 U.S. 296, 310 (1989).

21 The Ninth Circuit has held that a district court may ask counsel to represent an indigent
22 litigant only in "exceptional circumstances," the determination of which requires an evaluation of
23 both (1) the likelihood of success on the merits and (2) the ability of the plaintiff to articulate his
24 claims *pro se* in light of the complexity of the legal issues involved. *Terrell v. Brewer*, 935 F.2d
25 1015, 1017 (9th Cir. 1991). Plaintiff has presented his claims adequately, and the issues are not
26 complex. There are no pending motions, and it is premature to prepare for trial. The motion (dkt.
27 22) is **DENIED** without prejudice.

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1 **IT IS SO ORDERED.**
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3 Dated: June 25, 2024
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6 ROBERT M. ILLMAN
7 United States Magistrate Judge
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United States District Court
Northern District of California